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ABSTRACT

This report examines the outcomes of the John M. McKay Scholarships Program, a statewide voucher program for students with disabilities in Florida that provides students with taxpayer-funded vouchers to be used at private schools or at other public schools. It argues that the McKay voucher program, which started in 1999, is rife with accountability problems, financial mismanagement, under-qualified teachers, and inadequate educational and support services. The report provides background information on the McKay voucher program, explores McKay's costs and financial impact on public schools, and discusses the minimal guidelines private schools are expected to meet while participating in the McKay program. The following major points are made: (1) a voucher proposal jeopardizes the Individuals with Disabilities Education Act's (IDEA) legacy of success; (2) the push for IDEA vouchers may be fueled by the desire to cut services to children; (3) the program is wrongly being cited as a model for reform; (4) the program sacrifices critical rights of parents and children; (5) the program is not accountable to parents and taxpayers; (6) McKay vouchers have drained precious funds from public schools; and (7) the "choice" touted by McKay supporters is significantly limited in several ways. (Contains 168 references.) (CR)

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SPECIAL REPORT

Jeopardizing a Legacy

A Closer Look at IDEA and Florida's Disability Voucher Program

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Executive Summary

Thirty years ago, America was a very different place for children with disabilities. According to the U.S. Department of Education, as many as 1 million children with learning, physical or other disabilities were then excluded from our educational system. In 1975, the passage of a federal law dramatically changed this situation for the better. The Individuals with Disabilities Education Act (IDEA) guarantees a "free appropriate public education" to every child with a disability. The commitment made through IDEA has enabled millions of children to receive the special assistance they need, opening doors that were once closed to young people with disabilities. While funding and other important issues in special education remain the subject of intense debate, IDEA has left a legacy of hope and opportunity for millions of Americans. The impact of Florida's McKay program illustrates why vouchers could shatter this legacy and shortchange the needs of students with disabilities.

1. A voucher proposal jeopardizes IDEA's legacy of success.

Unfortunately, this legacy—and the needs of the millions of students covered by IDEA—could be seriously jeopardized this year. Last summer, the President's Commission on Excellence in Special Education recommended that Congress should include private school vouchers in the law reauthorizing IDEA. The chairman of the U.S. House Committee on Education and the Workforce supports this recommendation and is expected to support a voucher provision in IDEA when the law is reauthorized this year.

2. The push for IDEA vouchers may be fueled by the desire to cut services to children.

Some of the leading groups advocating special education vouchers for IDEA or other states may be driven by the desire to limit or cut funding. The pro-voucher Heritage Foundation and Fordham Foundation have both identified cost-cutting as a goal or predictable outcome from creating a voucher system in special education. A spokesperson for one of these groups even admitted that special education vouchers "would probably end up looking like a managed health-care plan ..." An HMO-style approach to IDEA could significantly compromise the quality of services that students with disabilities receive.

3. Florida's McKay voucher program is wrongly being cited as a model for reform.

Groups supporting IDEA vouchers are citing Florida's McKay voucher program as their model. Yet , a closer examination of the McKay program reveals a program with virtually no standards. Florida grades its public schools based on a strict set of standards and ties state funding to these grades. However, private schools receiving tax funds through McKay are not graded, not obligated to hire certified staff, and not required to test all special education students.

4. McKay voucher program sacrifices critical rights of parents and children.

Even though McKay vouchers are funded by public tax dollars, once parents use a voucher to transfer their children to private schools, they have effectively opted out of the legal rights and educational services guaranteed under IDEA—and Florida officials have failed to articulate this to parents. This loss of legal rights and IDEA services was confirmed by a March 2001 letter from the U.S. Department of Education's Office of Civil Rights (OCR). Parents have legal recourse if a public school does not comply with IDEA's provisions, fails to properly evaluate their children, or does not design or implement an Individualized Education Program (IEP) for their children. Under McKay, private schools are not bound by IDEA or by the terms of a child's IEP. A school board attorney in Florida summarized OCR's finding this way: "The state pays the (voucher) money to the private school and the parents are on their own."

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5. McKay voucher program is not accountable to parents and taxpayers.

There is no proof that the program is providing the participating students with an education as good or better than they would have received in public schools. Indeed, parents, community leaders and other Floridians have voiced serious concerns about a number of private schools—many of which were newly created—that receive taxpayer funds through McKay. For example, one voucher school changed its address at least four times during the school year and was cited for safety and health code violations. A company that manages several voucher schools, has been accused of failing to provide needed therapy and counseling, falsifying applications for state funds and other misdeeds.

6. McKay vouchers have drained precious funds from public schools.

The costs of the McKay voucher program have escalated rapidly and have financially punished public schools around the Sunshine State. Since it began as a pilot program in 1999, the McKay program has cost Florida taxpayers nearly $50 million. And the program's costs are growing rapidly. This school year, McKay's costs are projected to reach an estimated $56 million, more than the program cost during its first three years combined. Like other voucher programs, McKay diverts funding that would otherwise go to public schools. Most of this year's $7.3 million school budget shortfall in Pinellas County—one of Florida's largest school districts—was traced directly to the McKay voucher program.

7. The "choice" touted by McKay supporters is significantly limited in several ways.

A careful examination of the McKay program exposes the myth behind the promise that vouchers will provide all parents with a wide range of choices. Unlike public schools, McKay schools are free to discriminate on the basis of religion, gender or type of disability. Choice is also limited based on where a family happens to live. One out of three Florida counties have no more than a single, approved participating private school. Cost is yet another way in which choice is limited. Since the McKay program does not require private schools to accept the voucher as full payment, parents must make up any difference between the voucher and the school's tuition. For this reason, McKay tends to subsidize middle- and upper-income parents, who can better afford to pay additional amounts to cover private school tuition and other fees.

"We are a better country because disabled Americans have used IDEA to tell us a story that all Americans need to hear — that no child should be shunted aside because we do not think that they can learn — that every young person should be given the skills that they need in order to live independently — and that every American with a disability has a contribution to make to building up our society."[i]

— Former Education Secretary Richard Riley, White House ceremony marking the last reauthorization of IDEA (1997)

IDEA: Many Challenges, Much Progress

In 1975, Congress passed the landmark law that would later be called the Individuals with Disabilities Education Act (IDEA). According to some estimates, in the years just before IDEA's passage, as few as one in five children with disabilities received the educational assistance he or she needed.[ii] Today, the law covers 6.5 million students across the country.[iii] Roughly 70 percent of these students are taught in regular classrooms alongside students with no disabilities.[iv]

Through the years, as teachers, parents and policymakers have gained a deeper understanding of the strategies that work best for students with disabilities, IDEA has been changed to reflect this understanding. The last time the law was reauthorized, in 1997, IDEA was significantly reformed.[v] The 1997 reforms required for the first time that students with disabilities have access to the general curriculum and that the vast majority of these students be expected to participate in state and district-level assessments.[vi]

Without question, challenges remain to ensure that IDEA fulfills its original promise. Most of these challenges are rooted in the law's uneven implementation, which can frustrate parents or make it harder for children to receive the special education services they need.[vii] Another issue is attracting and retaining a sufficient number of teachers with special education training.[viii] Federal funding for special education is yet another challenge as Washington's commitment still falls far below the 40 percent share of total costs that Congress had originally intended for IDEA to cover.[ix] Parents, educators and policymakers agree that these and other concerns need to be addressed.

In spite of these challenges, however, IDEA continues to have an incredibly positive impact. In its 2001 IDEA report to Congress, the U.S. Department of Education noted that high school graduation rates for students with disabilities have climbed steadily since the early 1990s, while overall dropout rates for these students have fallen.[x] In a 2002 survey of special-education parents by Public Agenda, two-thirds of parents rated the quality of their children's programs in the public schools either "excellent" or "good." Additionally, the survey found that 77 percent of parents felt their children's "special ed team treats me like I'm part of the team," and 69 percent of parents agreed that there is "much less stigma attached to (children) being in special education than there used to be ..."[xi] Even a major critic of IDEA acknowledges that the law "unquestionably has helped millions of severely disabled kids achieve to their abilities."[xii]

Despite the progress that students with disabilities continue to make under IDEA, advocates of school vouchers have targeted the federal law and are making a voucher provision in IDEA one of their priorities this year. Last July, the President's Commission on Excellence in Special Education recommended adding a voucher provision to IDEA.[xiii] Republican leaders of the U.S. House Committee on Education and the Workforce support this recommendation and are pursuing this major change in IDEA in a largely behind-the-scenes fashion.[xiv] In a recent press statement outlining its agenda, the committee's GOP leadership spoke only vaguely of the desire to "reform" IDEA and never mentioned the words 'voucher' or 'choice' within its section devoted to special education.[xv]

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Voucher supporters contend that parents of special education students desperately need "choice," even though nearly seven out of 10 parents in the Public Agenda survey reported that teachers and other staff offered "real choices and options for my child."[xxiv] Moreover, federal law states that if, for any reason, a public school district cannot provide the special services needed by a student with disabilities, the district must pay the full costs of sending such a student to another public school or a private school that can provide these services.[xxv]

Even for those parents who may be dissatisfied with the services their children are receiving from public schools, adding vouchers to IDEA could have serious, unintended consequences. As one disability organization has warned, diverting IDEA funding to vouchers could "deprive public schools of critical funds needed to improve services to students with disabilities."[xxvi]

Pro-voucher groups have pointed to Florida's McKay voucher program as a model for changing the federal IDEA.

Are the groups putting their weight behind IDEA vouchers truly interested in improving the quality of education these children receive? Or are vouchers simply a convenient vehicle for cutting IDEA funds and weakening the law's commitment to kids? Pro-voucher groups' own words provide a chilling answer. An article published a few years ago by the Heritage Foundation[xxvii] expressed hope that "vouchers could limit how much taxpayers must pay to educate the disabled and begin a movement toward cost containment."[xxviii] The Institute for Justice's Clint Bolick has criticized IDEA as "expensive" and called for eliminating federal funding for students in IDEA's "specific learning disabilities" category, which covers more than half of all students who now receive IDEA funds.[xxix] When Mike Petrilli, a spokesman for the Fordham Foundation, was asked to describe what a voucher system for special education students would look like, he explained that such a system "would probably end up looking like a managed health-care plan where an HMO decides how much to pay for each procedure."[xxx]

Voucher supporters have pointed to Florida's McKay voucher program, enacted in 1999, as a model for implementing the Commission's recommendation.[xxxi] A spokesman for U.S. Rep. John Boehner, the pro-voucher Ohioan who chairs the House education committee, has called the McKay program "a pioneering effort."[xxxii] The Heritage Foundation contends that McKay "offers a model" for carrying out the voucher recommendation by the President's Commission.[xxxiii] And William Bennett, Education Secretary under President Reagan, has co-signed a letter praising McKay's "student-centered thrust" and citing the program as a template for IDEA vouchers.[xxxiv]

Yet the three years that Florida's McKay program has operated offer ample lessons on why IDEA vouchers would be a serious mistake. Indeed, a careful examination of the McKay voucher law reveals that the program is an Educational Edsel—a cynical 'model' that would only lead the nation's parents, students and taxpayers down a dangerous path. The growing evidence from Florida exposes the threat that vouchers pose to the more than quarter-century commitment of IDEA and the students it serves.

"Tossing out tax dollars to unlicensed, nonaccredited and possibly unqualified schools — with no oversight — is no way to help the state's neediest students."
—St. Petersburg Times editorial on the McKay voucher program, November 13, 2002

A Closer Look at Florida's McKay Voucher Program

The John M. McKay Scholarships Program is a statewide voucher program for students with disabilities in Florida, providing students with taxpayer-funded vouchers to be used at private schools or at other public schools.[xxvii] Earlier this school year, Florida Education Commissioner Charlie Crist proclaimed of McKay, "The program is working."[xxviii] And the state Department of Education's Web site asserts that the McKay program has been "enthusiastically received" by parents.[xxix] However, a thorough analysis of the program paints a very different picture.

The McKay voucher program is rife with accountability problems, financial mismanagement, underqualified teachers, and inadequate educational and support services, stemming mainly from a virtually unregulated program that funnels public tax dollars to private schools.[xxx] These kinds of problems led one Florida newspaper to editorialize last fall, "The McKay [voucher] law, and the way education officials administer it, invites such mischief ... This is becoming an educational farce, and one not easily squared with the commitment to leave no child behind."[xxxi]

Children with disabilities at public schools are protected under state and local civil rights laws, the U.S. Constitution, and under the Individuals with Disability Education Act (IDEA)—the latter of which assures them a "free appropriate public education" (FAPE).[xxxii] However, parents who use McKay vouchers to transfer their children from public to private schools lose in at least three ways. First, these parents lose key legal protections.[xxxiii] Under McKay, for example, participating private schools are free to discriminate based on the type of disability, behavioral issues, religion or gender.[xxxiv] Second, these parents are unable to hold their McKay private school accountable. Under McKay, these private schools are not required to make public their curriculum or the services provided, meaning parents and taxpayers have no way of fully ensuring that public tax dollars are paying for a better education at a private school than at a public school. The very use of the term "scholarship" to describe the McKay program, one educator has noted, is a "misrepresented enticement" that falsely implies to parents that they are being given "a cherished opportunity to the very best that money can buy."[xxxv] Third, parents sacrifice a core principle of FAPE—that children with disabilities, like other students, deserve a *free* public education. Indeed, the vast majority of McKay parents must supplement the voucher with their own money to meet the full cost of the private school.

How the McKay Program Works

Florida's McKay vouchers began as Sarasota County as a pilot program in 1999-2000, but were expanded to a statewide program in the 2000-01 school year.[xxxvi] The McKay program is funded fully by state tax dollars. At its current pace of growth, the McKay voucher program is likely to be the nation's most expensive, taxpayer-funded voucher program within a few years.[xxxvii] The program requires school districts to give parents of children with disabilities the option of transferring to another public school in the district or to a private school. The only criteria for eligibility are that the student attended a public school for the previous school year, the parent is "dissatisfied with the student's progress" in that school, and that a participating public or private school has accepted the student.[xxxviii]

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Under McKay, the state payment to a private school is either the school's published tuition and fees, or the amount of public school funding the student would have received in the public school, whichever is less.[xlii] McKay voucher or "scholarship" amounts typically range from $4,500 to $21,000, depending on the type of disability and services needed.[xliii] The voucher's face value rarely pays for the full costs of attending a participating private school. In the 2001-02 school year, 83 percent of McKay parents had to pay some amount of money in addition to their voucher to cover the full costs of tuition and other fees.[xliv]

Parental choices under McKay depend largely on where a family happens to live. In 12 counties, there are no participating private schools.

Promoters of the McKay program have touted the "choice" that it provides to special education parents, but the ultimate choice is made by participating private schools. Unlike public schools, McKay private schools are free to discriminate on the basis of religion or gender. A student's admission may also be denied based on his or her type of disability. At times, promoters of the McKay program have inaccurately portrayed the program, and discrimination in admissions is a case in point. Last year, in a letter to a presidential commission, three national voucher advocates praised McKay and offered this explanation of how the program operates: "If a private provider opts to take special education students and the funding that comes with them, they must take any who present themselves."[xlvi] This is simply not the case. Nothing in the state law prevents this kind of discrimination.[xlvii] Even many private schools that claim to welcome students with disabilities frequently pick and choose, denying admission to students with more severe or specific kinds of disabilities.

Additionally, choices under McKay depend largely on where a family happens to reside. In Florida's more heavily populated counties, there are a number of participating private schools. In smaller counties, however, parents have few options. In fact, there are no participating private schools in 12 counties.[xlviii] For 11 other counties, the state's Department of Education lists only one participating private school in each.[xlix] In other words, roughly one-third of Florida's 67 counties offer little or no choice. Finally, as is later explained, tuition and other fees can significantly limit choice for McKay parents.

McKay's Costs and the Financial Impact on Public Schools

So far, the McKay voucher program has cost Florida taxpayers $49.6 million.[l] Costs increased nearly five times from $5.8 million during the pilot and first year of the program[li] to nearly $28 million in 2001-2002.[lii] Estimated enrollment for the 2002-2003 school year is expected to double from the previous year.[liii] As a result, program costs, too, are likely to double.

Like other voucher programs, McKay diverts significant tax dollars away from public schools. This school year in Pinellas County, for example, more than 500 students left the district's public schools by using McKay vouchers. The loss of these students drained $4 million from the Pinellas public schools, accounting for most of the shortfall in the county's school budget.[liv] Voucher advocates claim that any loss of per-pupil aid is offset by the money that public schools save because they are no longer educating voucher students. But per-pupil aid is intended to cover much more than an individual student's instructional needs. Per-pupil funds are also intended to cover the overhead and fixed costs of operating a public school—such as teachers, counselors and other staff; utility costs; building maintenance and repairs; computers; school buses and other transportation costs. For Pinellas County's public schools, losing an average of less than four students per school to McKay vouchers does nothing to reduce these overarching, fixed costs.[lv] This has been confirmed in other voucher programs. A financial audit of the public

schools in Cleveland, conducted several years into its voucher program, found that the public schools were "losing [state aid] without a change in their overall operating costs."[liii]

Program Enrollment, Participation and Cost, 2001-2003[liii]

Year	Student Enrollment	Participating Private Schools	Annual Cost
2000-01	1,000	139	$5,883,636[lv]
2001-02	4,997[lv]	400	$26,382,493[lvi]
2002-03	8,644[lvii]	547[lviii]	$54,700,000[lix]

Note: The number of participating private schools for 2000-01 and 2001-02 are estimates, and 2002-03 data on enrollment and participating schools are projections.

In times of economic recession, school budgets are tight, forcing public schools to do more with fewer resources. Often times, critical programs that target the neediest students are the first to be cut, and this includes programs that reach students with disabilities. For example, Rae Osborne turned down a McKay voucher for her son who has autism. According to Osborne, her son was performing well in his public school and had even made the honor roll, thanks largely to the help of a classroom aide employed by the school. But the state later stopped providing local school districts with the funds to hire such aides.[lx] (The state's action may, in fact, constitute a violation of IDEA.) In a letter to the editor of the *St. Petersburg Times*, Osborne wrote: "It may interest some to know that at the same time this (McKay) expansion took place, the [state] withdrew funding for enhanced aides for disabled students."[lxi] McKay and other voucher programs exacerbate the normal funding pressures that public schools face, further punishing schools that serve the overwhelming majority of children. Moreover, the funding that public schools lose to vouchers seriously undermines proven practices that can help students who are struggling to learn.

Increasingly, parents, civic and business leaders, and other Floridians are beginning to publicly question the wisdom of diverting tens of millions of tax dollars to private schools at a time when Florida has earned a D+ in a new national "report card" on adequate funding of its public schools. This dismal grade places the Sunshine State behind nine of the 10 other Southern states.[lxii]

McKay's Minimal Guidelines for Private Schools

Florida's public schools are graded under a rigorous state system and are required to report student and school performance data, ensure that teachers have specific educational credentials and experience, administer state assessments, and publicly disclose their dropout rates and similar data.[lxiii] In Florida, private schools are not held to these same standards, and they are not licensed by the state.[lxiv] The McKay program asks participating private schools to meet only limited guidelines. These guidelines include:[lxv]

- demonstrating fiscal soundness (by being operational for one year, certifying adequate funds for one year, or simply by filing a letter of credit equal to the scholarship funds for one quarter);
- submitting a schedule of tuition and fees (for textbooks, labs and transportation);
- complying with federal laws that prohibit discrimination on the basis of race, color or national origin;
- employing teachers with a college degree or higher, three years of teaching experience, or those with "special skills, knowledge or expertise";

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- meeting state and local health and safety codes;
- adhering to their own published disciplinary procedures; and
- being "academically accountable to the parent" for meeting a student's needs.

Several of these flimsy guidelines are rendered even weaker by the fact that the law never defines or explains them. For example, the law never explains what "special skills, knowledge or expertise" might qualify someone without a college degree to teach special education. Therefore, private schools are free to define this term to suit their self-interest. Combined with the existing national shortage of special educators,[lxv] the McKay standards in no way ensure that students are taught by qualified individuals. Moreover, by removing money from the public system, McKay vouchers limit public education's ability to finance the high quality, in-service training necessary to improve the skills of the current teaching staff, as well as public schools' ability to attract and retain fully qualified teachers.

Combined with the existing national shortage of special educators, the McKay standards fail to ensure that students are taught by qualified individuals.

The out-of-sight, out-of-mind view that Florida officials have taken toward participating private schools and the qualifications of their teachers is not a position that was taken by default or by accident. In fact, the voucher law requires that McKay *"not expand the regulatory authority of the state ... to impose any additional regulation of private schools."*[lxvi] As a result, the state Board of Education has failed to keep faith with its own governing principles. "The state Board of Education established 'accountability' as part of its guiding principles," a Florida newspaper recently editorialized. "That's not easy with your eyes closed."[lxvii] The myriad problems surfacing under McKay reinforce this point.

Florida law does not limit enrollment in the McKay voucher program. Consequently, any of the state's estimated 350,000 students with disabilities currently enrolled in public schools are now eligible to apply for a voucher.[lxviii] This potential market has spawned a number of new schools that have essentially been created to gain access to state tax dollars through McKay.

The minimal state guidelines for participating private schools explain why, in the words of one newspaper, "a McKay school can be created overnight."[lxix] As an article by *South Florida Parenting* magazine noted, "private schools are popping up everywhere."[lxx] Nearly 550 private schools are eligible to receive McKay voucher dollars, and more than half are religious schools.[lxxi] Florida officials don't know how many of these participating McKay private schools were created specifically to reap the benefits of McKay dollars, and they seem quite disinterested. "What's the point of knowing that?" a state official replied to one newspaper that sought this information.[lxxii]

Serious concerns have been voiced about the quality of these newly formed private or religious schools, and parents and public school officials aren't the only ones worried. "I fear that some (private schools) are jumping on the bandwagon and figuring on making some easy money," said Mary Hercher, who heads a 20-year-old Florida private school serving voucher students.[lxxiii] Hercher's concerns are justified by growing reports of financial abuse or mismanagement at McKay voucher schools.

Under McKay, Parents 'Are on Their Own'

Last year, former Education Secretary William J. Bennett joined two other national voucher advocates in praising the McKay program because "families are empowered to make decisions about the educational services their children receive."[lxxiv] In spite of this enthusiastic testimonial, however, McKay parents

are quite powerless. Even though vouchers are funded by public tax dollars, once parents choose a private school under McKay, they are—whether they realize it or not—effectively opting out of the services and legal protections afforded under IDEA.[lxxv] This was confirmed by a March 2001 letter from the U.S. Department of Education's Office of Civil Rights (OCR). In the letter, OCR officials determined that, in fact, parents who use a McKay voucher to send their children to private schools forfeit their children's right under IDEA to a "free appropriate public education."[lxxvi]

The implications are serious and far-reaching. In effect, private schools that participate in the McKay program need not comply with IDEA's provisions: no guarantee of due process protection, no guarantee that students will be evaluated or re-evaluated, and no guarantee that the private school will design and implement an appropriate Individualized Education Program (IEP) for each McKay student. While some private schools may develop plans similar to IEPs, there is no legal requirement for private schools to do so. Incredibly, even though a public school student *must* have an IEP to be eligible for McKay vouchers, the private school that accepts this student is not required to follow the terms of the student's IEP.[lxxvii] A private school's potential disregard for a student's IEP is no small matter. As the U.S. Department of Education has declared, "The IEP is the cornerstone of a quality education for each child with a disability."[lxxix] While parents can take legal action against a *public* school to uphold these rights and services under IDEA, they forfeit the ability to take similar action if their child is attending a participating McKay private school.[lxxx]

Participating McKay private schools need not comply with IDEA's provisions guaranteeing due process protection, students evaluations and the design of an appropriate Individualized Education Program for each student.

In a letter to his colleagues, Pinellas County School Board attorney John Bowen summarized the significance of OCR's finding. "That means that there is no guarantee," he wrote, "that the student will receive any special education and related services while enrolled in the private school under the voucher program." Bowen added: *"The state pays the [voucher] money to the private school and the parents are on their own."*[lxxxi]

Unfortunately, McKay fails to give state and local officials proper guidance in ensuring that parents understand their children's legal rights under IDEA and the protections their children stand to lose when they attend a McKay private voucher school.

Public school districts are charged under McKay with providing parents with "all options" when considering a public or private school transfer. Yet a number of local district officials report that the state has not provided them with clear guidelines or formal procedures to help them fulfill this responsibility. In the absence of any guidance from the state, it is likely that local school districts are only providing information on legal rights and other "options" on an ad hoc basis or when they are specifically asked by a parent.[lxxxii] Even worse, state and local school officials are in no position to realistically inform parents of the educational services their child could lose (or gain) at a specific private school because private schools are not required to publicly disclose the services they provide.[lxxxiii]

Florida's Department of Education has considerable information on the public school education of students with disabilities, as well as on the legal rights of these students under state and federal laws. Yet nothing in the McKay voucher law stipulates that the state or local school districts must provide parents with this information when they opt to move their children from a public to a private school.[lxxxiv] This may explain why many parents may not realize that—unlike public schools—participating McKay private schools are free to discriminate on the basis of religion, gender or type of disability.

The McKay Tuition Gap: Who Benefits and Who Doesn't

The McKay voucher program does not require private schools to accept the state funds as full payment. Parents are responsible for making up any difference between the voucher amount and the school's tuition.[lxxvi] Because of this tuition gap, the program tends to act more as an education subsidy for affluent parents—as opposed to ensuring more options for low- and middle-income parents.

The low voucher amount also discourages higher-tuition private schools from joining the voucher program. In fact, many private school administrators have stated that they would be reluctant to accept voucher students, citing lack of space, long waiting lists and the inadequacy of the voucher amount as reasons.[lxxvii] The executive director of the Dade Association of Academic Non-Public Schools commented: "Most of our private schools have tuition that's more than the vouchers would pay. Do you think a private school that charges $12,000 a year would be anxious to take a student for $4,000?"[lxxviii] This helps explain why 80 percent of Florida's private schools declined to participate in the McKay voucher program during the 2001-02 school year.[lxxix] This percentage of non-participating private schools would likely have been even higher had it not been for the private schools that were launched almost overnight once McKay was expanded to a statewide program.

One school board attorney has summarized McKay's impact on parents' legal rights this way: "The state pays the [voucher] money to the private school and the parents are on their own."

There is no reason to believe that private school participation rates would be much higher in other states under a McKay-style voucher program. In fact, a 1998 survey by the U.S. Department of Education of private schools in urban areas found that between 70 and 85 percent of schools would "definitely or probably" *not* be willing to participate in a voucher program if they had to accept "students with special needs such as learning disabilities, limited English proficiency or low achievement." Additionally, 86 percent of the religious schools surveyed expressed this same unwillingness to participate.[lxxx]

According to the Florida Department of Education's Choice Office, the average McKay voucher amount is about $5,547.[lxxxi] By comparison, annual tuition at the state's private and religious schools can, and often does, far exceed that figure. Three years ago, tuition for private schools accredited by the Florida Council of Independent Schools ranged as high as $21,350,[lxxxii] a figure that has almost certainly increased since then. Tuition at South Florida's leading private schools ranges from $9,000 to $15,000 each year—books, uniforms, registration fees and other costs can push the total price above $20,000.[lxxxiii] Furthermore, some private schools charge considerably more for special education students than for other students in order to hire the highly trained, certified teachers who are qualified to work with a range of disabilities. For example, in Palm Beach County, the Hillel Day School, charges a per-pupil tuition for K-8 students of between $9,100 and $9,700. However, the cost for a special education student is $16,500.[lxxxiv] Similarly, Killian Oaks Academy is a Miami-based private school for children with mild to moderate learning disabilities which charges a tuition of $13,500. In a 2001 article, *Education Week* profiled a student at Killian Oaks who had received a $5,000 McKay voucher from her public school district.[lxxxv] The remainder of the private school's costs had to be made up by the student's parents or through other private scholarship programs. Most low-income—and many middle-income—parents could never afford an option like Hillel Day or Killian Oaks.

It is worth noting that under the federal standard of FAPE, a public school district must meet the needs of a student with disabilities or pay the *full* cost for that student to attend another public or private school. If such a student were to need the specialized services that only a private school such as Killian Oaks provided, the public school district would pay the full tuition. Unfortunately, a single mother who might be entitled under FAPE to have her child attend a school like Killian Oaks might be lulled by McKay into unnecessarily paying out-of-pocket costs that exceed the face value of the voucher.

Financial and Legal Abuse Under McKay

Unfortunately for Florida taxpayers, the McKay voucher program is particularly vulnerable to financial abuse because the law doesn't authorize the state to routinely audit private schools to ensure that public tax dollars are spent appropriately. According to the Florida Department of Education, there is no investigation or examination of a participating private school unless a specific allegation of malfeasance is brought to the department.[cv] The state's hands-off posture has sent the wrong signal to private school owners that financial abuse of McKay tax dollars is likely to go unnoticed and unpunished. The impact of this passive approach is apparent.

Several participating private schools have asked parents to sign over their "power of attorney" so that voucher checks could be directly sent to the private school's management companies without the parent's signature.[cvi] The state was later forced to acknowledge that it wrote checks directly to voucher schools, as opposed to parents—a direct violation of the law.[cvii] Such incidents have even McKay parents scratching their heads. "If it's government money," asked one such parent, "don't you have to have someone watching how the money is spent? I don't think the money is being spent the way it should."[cviii]

Over the past year, there have been growing complaints that McKay schools are engaging in fraud or financial mismanagement. AJC 2000 Management Team Inc., a for-profit company managed by entrepreneurs Art and Angel Rocker, has been the subject of such allegations.[cix] AJC operates several voucher schools in Florida, educating one in eight McKay voucher students. The Rockers were expected to receive $1.5 million in state tax funds in 2002, pocketing roughly $1 of every $15 the state pays in McKay vouchers.[cx] Former staff members, school administrators and angry parents have charged AJC with financial wrongdoing. For example, despite receiving millions of dollars from the state, AJC paid former teachers only $10.50 an hour. Additionally, teachers claim that they frequently spent their own money on food for students, books, and supplies such as a blackboard and papers. In fact, the former principal at one of the company's schools states: "All I know is the money wasn't going in to the classroom."[cxi]

One McKay school required its staff to recruit students to the school-at least one administrator was instructed to recruit an average of more than one new student per day.

AJC also assigned at least one highly questionable task to its staff. At least one AJC administrator and an unknown number of other staff received a December 18, 2001 memorandum from the company, declaring that "each of you has a specific goal to meet and you must have that goal met by Jan. 10, 2002. Your goal is (recruiting) 50 new students."[cxii] It's not clear whether AJC considered whether saddling staff with its ambitious recruiting goal—more than one student per day—would undercut the critical responsibilities these staff already have to supervise, teach and monitor children.

Two years ago, Ed Anderson, a former administrator for the non-profit arm of AJC, sent documents to the Florida Department of Law Enforcement requesting an investigation into the company's accounting

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practices and alleging that the Rockers regularly misrepresented the cost of non-voucher tuition and overstated revenues.[cvi]

While AJC was formed after the McKay law was passed, it isn't just newly formed private schools that are the subject of loud complaints by parents and staff. State officials continue to send voucher dollars to a 13-year-old private school that is operating under a cloud of controversy.[cvii] The South Florida International Academy (SFIA) had one branch, the Miramar campus, that was operating without accreditation. A former principal of SFIA stated that Miramar parents were unaware that their children were attending a school that, in all likelihood, would not be recognized by colleges and trade schools. While the Miramar campus has since left SFIA, the state continues to funnel tax dollars to SFIA even as officials investigate the Academy for financial abuses.[cviii]

During the 2001-02 school year, employees of two of the Rockers' schools, Bellview Junction and S.L. Jones Academy, held a press conference to level several allegations against AJC, including the following: the state paid for specialized services that were never provided; a counseling director was ordered to endorse empty guidance counseling sheets; applications for state funds were falsified; and some parents were paid in cash by the Rockers to silence complaints.[cix] The Rockers dismissed these allegations as the product of disgruntled former employees and parents.[cx]

Excellence Academy, a participating McKay private school in St. Petersburg, was cited for safety and health code violations, and changed its address at least four times during one school year.[cxi] (One of the addresses used by the voucher school was the address of a public library.[cxii]) Although the school's director, Angela Sweet, told Florida officials she was not conducting classes at the dilapidated building in which she lived, Sweet gave this address to state officials as the Academy's address. Moreover, neighbors allege that Sweet indeed operated the school at her home. The school received $7,000—the first of four annual payments—for each of four McKay voucher students. Complaints by Sweet's neighbors and others finally led the state to stop payments to Excellence Academy last October and remove the school from its list of eligible, participating private schools.[cxiii] "It blows my mind," said a neighbor who lived across the street from Sweet. "They're getting taxpayer dollars for this? That's not right."[cxiv]

Even a superficial review of Excellence Academy's application form should have raised the eyebrows of state officials. On the form, the Academy was less than reassuring in explaining its ability to provide Exceptional Student Education (ESE) services: "The ESE services we offer is (sic) an opportunity to master the technics (sic) of the proven language arts system to become fluent readers."[cxv]

Under McKay, the state paid W.J. Redmond Christian Academy a total of $424,000 to educate 65 students in Palm Beach and Miami-Dade counties.[cxvi] State officials mailed Redmond's voucher checks to five different addresses, including the school owner's home. State officials accepted incorrect addresses (including those of a motel and an empty church hall) and disconnected phone numbers. And even though the school's student records were inaccurate and often incomplete, the state continued to send quarterly checks to pay for voucher students, some of whom had since left the school to return to a public school or transferred to another voucher school.[cxvii]

Since the state Department of Education does not ask for an accounting of how public tax dollars are spent by private voucher schools, such funds can be spent inappropriately. Demetrio Perez Jr., the founder and director of the Lincoln-Marti Community Agency Schools, has been criticized for profiting from the voucher program. *The Miami Herald* found that Perez's Lincoln-Marti Community Agency, a nonprofit agency—which is separate from the for-profit Lincoln-Marti schools—used $413,966 of tax dollars under McKay to make improvements to an office building that Perez owned. The agency, in turn, paid Perez more than $1 million in rent.[cxviii]

Inadequate oversight has also allowed some home-schoolers to receive taxpayer funds under McKay. Will Thompson, a student with dyslexia, is the only student at Good Will Academy, a school started by his parents. Although his parents have an occupational license to operate a school, they are essentially getting $5,000 of public taxpayer money to home-school their son.[xiv]

These circumstances attest to the consequences of adopting a law without the oversight to protect parents, students and taxpayers. Even private school officials have taken state officials to task for their lack of oversight. Skardon Bliss, executive director of the Florida Council of Independent Schools, said recently that many of the nightmare-like stories about participating private schools could have been prevented "if someone had checked" these schools before admitting them to the McKay program.[xv] Referring to other McKay private schools, the headmaster at a Tampa private school said, "Right now, some of the schools may not be providing the services that are needed, which really could be an injustice to the child."[xvi] *The Daytona Beach News-Journal* observed that "it's easy to see how the profit motive might tempt some voucher-accepting schools across the state to cut corners or make promises they can't keep."[xvii]

Other Financial Concerns Under McKay

In a number of cases under McKay, state officials have reportedly approved vouchers or increased voucher amounts in violation of state law or established policies. According to McKay, a private voucher school is to be paid either the school's published tuition and fees *or* the amount of funding the student would have received in the public school, whichever is less. Once this voucher amount is determined, it is supposed to remain fixed unless the student in question changes schools. But public school officials in Pinellas County have found 31 instances in which the state increased its voucher payment to private schools within the course of a school year.[xviii]

Pinellas County officials report dozens of cases in which Florida incorrectly made or changed voucher payments, including one case in which a student with a broken leg but no disability was approved for a McKay voucher.

Pinellas officials have also uncovered at least a half-dozen cases in which Florida officials made voucher payments on behalf of students assigned to the state's juvenile justice system, a clear violation of state law. These officials even discovered one student with no disability who was approved for a McKay voucher after she broke her leg and was home-schooled while she healed.[xix]

Questions have been raised about the tuition or enrollment data submitted by some of the participating private schools. For example, Florida doesn't verify the tuition quoted by these schools or determine whether this tuition in any way reflects the level of services provided.[xx] Several private schools have listed inflated tuition figures in order to receive more public tax funding. For example, W.J. Redmond Christian Academy, managed by a social worker and her daughter, listed its tuition at more than $20,000, comparable to schools that employ a team of highly trained specialists to work with their disabled students.[xxi] Similarly, Bethel Metropolitan Christian Academy filed papers with the state claiming that fees and tuition amounted to $17,310. However, tuition rates are meaningless for Bethel, which has no tuition-paying students—the school only has voucher students. In fact, the school's handbook does not even provide a tuition figure and simply states: "The management team will notify parents when it is time to sign the vouchers."[xxii] While the law requires that voucher payments be made on a quarterly basis,[xxiii] it does not require the state to verify student enrollment.

Lack of Academic Accountability

In Florida, public schools are graded according to rigid criteria and funding is tied to performance. Every aspect of school and student performance—from test scores to graduation rates to dropout rates—is made available to the public. Funding is tied to this grading system so that public schools that fail to make adequate progress can be held accountable.[xxvi] However, private schools are not held to any of these accountability standards. In fact, the state explicitly rejected an amendment that proposed grading private schools like public schools.[xxvii]

The only reference to academic performance within McKay's guidelines states that private schools must be "academically accountable to the parent for meeting the education needs of the student."[xxviii] But this language is never clearly defined, nor does the law specify the consequences that result when a private school fails to meet a student's needs.

Even worse, the McKay program doesn't provide parents or state officials with the proper tools to monitor the progress of these voucher students or the overall performance of the private schools they're attending. As a result, it is virtually impossible to assess whether McKay students are actually getting a good education at private schools. More than a year and a half ago, the *Gainesville Sun* urged state officials to "wake up and realize" the foolishness of "throwing millions of dollars at private schools on the blind assumption that they are inherently better than public schools..."[xxix]

Since the law permits state officials to take a "hear no evil, see no evil" approach to oversight, McKay places virtually all of the burden on parents. But parents are in a poor position to monitor the situation on their own. This is largely due to the fact that McKay private schools are not required—as noted earlier—to involve parents in the ways mandated by IDEA. This is deeply troubling, given that a national disability coalition has called parental involvement a "critical" element in the success of special education students.[xxx] Meanwhile, legislators continue to expand the McKay voucher program, funneling even more public tax dollars to private schools with only limited oversight.[xxxi]

The year after McKay was expanded to operate statewide, the ultra-conservative publication *Human Events* praised the program and stated that "new schools have opened to meet students' needs," adding: "The results have been remarkable."[xxxii] But news reports over the past two years throw cold water on that conclusion. The voucher school featured most prominently in the *Human Events* article was a school opened by AJC 2000 Management Team Inc., which manages several schools that receive McKay funds. Parents, teachers and others have made serious allegations against AJC, including charges that the company failed to provide needed therapy and counseling to students. At one AJC school, some students reportedly endured seven different teachers in a seven-month period. AJC's owners, the Rockers, have denied these and other allegations against them. But DiAnne Taylor, a former principal at an AJC school, complained that the company "had no intention of delivering what they promised. It's people taking advantage of the poor."[xxxiii]

Many children with disabilities need specific special education services such as occupational or physical therapy, counseling and speech-language pathology, and related services. These services generally can only be provided by trained staff members through face-to-face interaction. Nonetheless, James Madison K12 Academy, a "virtual" private school based in McLean, Va., is aggressively marketing its online academy to Florida parents of students with disabilities.[xxxiv] The Academy advertises on its Web site that with McKay scholarships, "your child can attend for free."[xxxv] But an online school is unable to provide the occupational or physical therapy, or other services, that many children with disabilities need every day. Moreover, a virtual school may also bypass state licensing and credentialing standards for teachers or staff.

While the McKay program was supposedly designed for students with disabilities, participating private schools are not required to provide the same level of special education services as public schools are under IDEA. This is reflected by the fact that McKay does not require teachers at participating private schools to be certified or even hold a high school diploma. Teachers at McKay voucher schools need only to have three years of teaching experience or "have special skills, knowledge or expertise that qualifies them to provide instruction."[cxxxvi] Two years into the program, one news article reported that none of the teachers at S.L. Jones Academy, a religious school, were certified to teach special education even though the school has enrolled autistic, mentally handicapped and speech impaired students.[cxxxvii]

Parents at one McKay school complained that the parochial school was not providing books or needed services, and that the school's staff had abused students.

Similarly, parents of disabled children enrolled at New Jerusalem Learning Center, another McKay school, complained that the religious school did not provide adequate special education services such as speech and physical therapy.[cxxxviii] In fact, even Diane McCain, the director of the Choice Office at the state Department of Education has admitted that "[n]o special ed services are necessarily provided" at some McKay voucher schools.[cxxxix]

In other instances, the academic deficiencies in participating McKay schools have been more fundamental—and more disturbing. Last school year, McKay parents who enrolled their children in Bethel Metropolitan Christian School[cxl] complained that the school had no books, no uniforms, and was not providing needed services, and that Bethel's staff had verbally and physically abused students. The school's problems got so severe that even the headmistress of the school took her own children out of the school. She was fired soon thereafter.[cxli]

The Testing Loophole

Many of the academic shortcomings in McKay private schools may stem largely from the fact that the voucher law doesn't require participating private schools to follow any specified curriculum or to test students.[cxlii] Under the law, a private school is not responsible for administering state assessments to their students. Without testing, parents have no objective data to assess student performance and, therefore, can never truly confirm whether their children are getting a better education at a private voucher school than they would have received at a public school.

The testing issue is noteworthy because some IDEA critics complain that public schools isolate or "warehouse" some groups of special education students, failing to test them or actively monitor their progress. Clint Bolick, who co-founded the Institute for Justice—a pro-voucher legal group in Washington, D.C.—has complained that public schools often exclude special education students from so-called high-stakes tests.[cxliii] Under the recently passed No Child Left Behind Act, however, states are mandated to increase testing and establish a single statewide accountability system. States must also define "adequate yearly progress" in a way that identifies measurable objectives for raising the achievement of all students, including those with disabilities.[cxliv]

In fact, a McKay-style voucher plan at the national level would actually make it far more likely for special education students to be excluded from such tests. In 2000, for example, *not a single Volusia County student who enrolled in a private school through McKay vouchers took Florida's statewide test.*[cxlv] This testing loophole for McKay private schools is particularly glaring because the No Child Left Behind Act has significantly raised the bar for public schools, requiring that every child in public school grades

3-8 be tested, including students with disabilities. Furthermore, the Act mandates that school districts publish annual report cards that provide more information on student progress by reporting test data for each of several groups, including students with disabilities.[cxlvi]

Interestingly, a number of high-profile voucher supporters have praised these federal mandates for increased testing, including syndicated columnist George Will: "Information, generated by testing, is necessary for a market in which parents can, as comparison shoppers, hold schools accountable."[cxlvii] But under McKay, parents have no data to compare. Public schools are mandated to test students with disabilities and report the results; participating private schools are not. As Sharon Rousey, the vice president of Seminole County's Special Education Parent-Teacher Association, has asked: "[W]here's the accountability? Are you going to retest these children to see if they are doing something better in this private environment?"[cxlviii]

Perhaps the ultimate irony about McKay is that while the program has been cited by IDEA voucher supporters as a model, McKay would not meet the simple standard set forth in the voucher proposal recommended by the President's Commission on Excellence in Special Education *(see Appendix B)*. The Commission specifically wrote that any states using federal funds for private-school vouchers should be required to "measure and report outcomes for all students benefiting from IDEA funds."[cxlix] As already noted, the state of Florida does not require private schools to test and report scores for McKay students.

At a time when public schools are being asked to meet new and higher standards of accountability, the state's unwillingness to hold McKay private schools to the same standards is indefensible. One Floridian who works closely with special education students has written that McKay "is much more about using taxpayer dollars to fund private schools than it is about educating disabled children."[cl]

Promoters or Watchdogs?

Regardless of their personal or political views, state officials have a responsibility to serve as watchdogs, ensuring that public tax dollars are spent wisely. In the case of education, this role includes monitoring student performance, academic curricula, the quality and credentials of teachers and staff, and other factors. But Gov. Jeb Bush and many of Florida's other top officials are playing a very different role: acting as cheerleaders for the McKay program.

Indeed, proper oversight of McKay is undercut by state leaders' desire to promote the program—one of their main education initiatives—as a success. Last year, then-Education Commissioner Charlie Crist praised the McKay program, even as more and more allegations arose concerning financial abuse and other problems among voucher schools.[cli] After the McKay law was passed, Crist even sent letters to 280,000 special education families, inviting them to try the alternative private schools and providing a list of participating McKay schools. In effect, the state provided a major financial incentive for the creation of new private schools, some of which had formed virtually overnight, and then acted as a recruiter for these private schools.[clii]

Asking public schools to post or circulate notices about the McKay law to parents would be understandable. However, given that Florida's per-pupil funding in 2002 was well below the national average,[cliii] it is unconscionable that the state would redirect tens of thousands of tax dollars to encourage parents to move their children—and tax dollars—to private schools. As a *St. Petersburg Times* editorial put it, Florida officials provided McKay voucher schools with "[f]ree advertising, complete with the state seal."[cliv] State officials' active pitch to parents is particularly egregious considering that parents choosing a McKay private school are, in many cases, unknowingly discarding key legal rights and protections.

State leaders' enthusiastic promotion of the program continues even though anecdotal evidence indicates that a considerable number of McKay students appear to have left the program and returned to public schools. In other cases, some parents who have filed a "letter of intent" to participate in the program have decided, in the end, to keep their children in public schools. Several factors may lead parents to reconsider and not use a voucher, including private schools' tuition and other costs,[civ] concerns about staff and service limitations, the lack of transportation options, religious teachings or affiliations, or other factors. Indeed, some of these parents may have been unable to find a participating private school to enroll their child due to admission requirements or space. The precise number of McKay parents who return their children to a public school or who decide, although eligible, not to use a voucher is extremely difficult to determine because this is yet another area where state officials collect little or no data. And local districts are not required by the Florida Department of Education to collect this data. However, data independently collected by one school district suggests that this number is significant.

A considerable number of parents appear to have left the McKay program. In one county, nearly half of all parents who filed intent letters to use a voucher either kept their children in public schools or later returned them to public schools.

In Clay County, for example, there are 249 public school students whose families applied to use McKay vouchers for the 2002-03 school year.[cv] Of these, 131 are now attending a McKay private school, and 16 McKay students have returned from private schools to Clay County public schools. Additionally, there were 92 students whose parents filed a letter of intent to use McKay vouchers, but never used them, probably for one or more of the reasons noted earlier. These 92 students remained in the county's public schools. Taken as a whole, these numbers reveal that nearly half—45 percent[cvi]—of Clay County parents who applied for McKay vouchers chose, after all, to keep their children in public schools or eventually returned their children to public schools.[cvii] The *Florida Times-Union* reported that dissatisfaction with the special education services in private schools had motivated ex-McKay parents to return their children to public schools. [cviii]

Conclusion

The McKay voucher program has many promoters, both within and outside of Florida. Some powerful forces in Congress and leading voucher advocates are now trying to enact a McKay voucher program in their state or to cover the entire nation. As they tout McKay as a model for the rest of the nation, voucher supporters are giving those 19th century snake-oil salesmen a bad name. Last fall, one pro-voucher group hailed the McKay program as "The Florida Miracle."[clxiii] The head of Floridians for School Choice has praised McKay as "the most parent-friendly school choice ever."[clxiv] And a spokesperson for the Yankee Institute has claimed that the McKay voucher program offers "evidence that choice serves the disabled well."[clxv] But, despite all of the hoopla, there is no such evidence. As Franklin Roosevelt once reminded a radio audience, "Repetition does not transform a lie into a truth."[clxvi]

The often-heard rhetoric of the leading voucher groups cannot obscure what appears to be their deeper agenda. Indeed, a number of these organizations appear far more interested in cutting services than in providing educational opportunity for students with disabilities. Several of these groups have been unusually candid, identifying cost-cutting as a beneficial or likely impact of vouchers.

An article co-written by the policy director of Children First America, a national pro-voucher group, recently noted that if Connecticut uses McKay as a model for creating its own disability voucher program, "the savings to suburban taxpayers can be enormous."[clxvii] In 1999, the Heritage Foundation published an article voicing hope that disability vouchers could "begin a movement toward cost containment."[clxviii] Just last year, the pro-voucher Cato Institute even urged states to refuse any IDEA funding as a means to avoid having to comply with the law.[clxix]

Perhaps the best response to these views comes from Ed Anderson, a former administrator who worked for AJC 2000 Management Team Inc. (AJC is the Florida company that operates private schools and has faced numerous allegations of wrongdoing in its use of McKay tax funds.) Anderson quit his job at AJC last year after he and other staff publicly took issue with the company's financial practices. He later summed up his reasons for leaving one of AJC's McKay schools: "Children's lives are more important than money."[clxx]

How much value does America place on educating students with disabilities? Is the nation committed to raising achievement for these students? Are elected officials and policymakers willing to ensure that students with disabilities are covered by the accountability system established by the No Child Left Behind Act? The IDEA voucher concept offers a profoundly disturbing answer to this question.

A disability voucher program modeled after McKay would encourage millions of parents nationwide to relinquish critical legal protections and send their children to private schools with questionable services, few standards and no genuine accountability. High tuition rates, space limitations and other obstacles at pre-existing private schools would force participating voucher students to trust their educational fate to a new cadre of private schools, newly formed to seek a bounty of federal and state tax dollars. A McKay-style voucher plan for the nation's 6.5 million special education students would jeopardize IDEA's legacy and seriously compromise the quality of education that these children receive.

APPENDIX A

Additional Data on Florida's McKay Voucher Students

Participation Data by Race and Grade Level, 2001-2002

Breakdown of Data	Number of Participants
Race	
White	2,119
Black	1,243
Hispanic	879
Asian	19
American Indian	8
Multi-Racial	63
Other	52
Grade Level	
Elementary (K-5)	1,870
Middle (6-8)	1,809
High (9-12)	704
Total (as of April 2002)	**4,383**

Source: 2001-2002 McKay Student Data, John McKay Scholarship Program, Florida Department of Education.

Types of Disabilities Among Students Using McKay Vouchers, 2002-03

Type of Disability	Percentage of Students
Educable Mentally Handicapped	7.7%
Trainable Mentally Handicapped	1.6%
Orthopedically Impaired	0.9%
Speech Impaired	7.7%
Language Impaired	9.7%
Deaf or Hard of Hearing	0.6%
Visually Impaired	0.2%
Emotionally Handicapped	8.9%
Specific Learning Disabled[cxviii]	51.4%
Gifted	0.5%
Hospital Homebound	0.9%
Profoundly Mentally Handicapped	0.1%
Dual-Sensory Impaired	0.02%
Autistic	2.2%
Severely Emotionally Disturbed	1.8%
Traumatic Brain Injured	0.2%
Developmentally Delayed	0.5%
Other Health Impaired (includes ADD / ADHD)	5.1%

Source: Data from the Florida Department of Education Choice Office, available on the Manhattan Institute web site.

APPENDIX B

The President's Commission on Excellence in Special Education (Final Report, July 2002)

Excerpts of the Report:

> **"Recommendation**—*Increase Parental Empowerment and School Choice.* Parents should be provided with meaningful information about their children's progress, based on objective assessment results, and with educational options. The majority of special education students will continue to be in the regular public school system. In that context, IDEA should allow state use of federal special education funds to enable students with disabilities to attend schools or to access services of their family's choosing, provided states measure and report outcomes for all students benefiting from IDEA funds. IDEA should increase opportunities for parents to make informed choices about their children's education. Consistent with the No Child Left Behind Act, IDEA funds should be available for parents to choose services or schools, particularly for parents whose children are in schools that have not made adequate yearly progress under IDEA for three consecutive years."

ABOUT THE ORGANIZATIONAL CO-AUTHORS

People For the American Way Foundation (PFAWF) conducts research and engages in legal action on the many of the key issues that shape our diverse and democratic nation. PFAWF is a premier source of vital information for policymakers, scholars and activists nationwide on constitutional liberties, public education, civil rights and other concerns. Last June, for example, three PFAWF reports were cited by a U.S. Supreme Court opinion on the issue of private-school vouchers. PFAWF also provides ordinary citizens with the means to engage their friends, neighbors, and elected officials in substantive conversation about the values of freedom, fairness, and diversity. PFAWF is headquartered in Washington, D.C., and has offices in New York, Los Angeles, Chicago, Miami and Tallahassee, Fla.

DISABILITY RIGHTS EDUCATION & DEFENSE FUND

The Disability Rights Education and Defense Fund (DREDF) is the leading independent cross-disability national center dedicated to protecting and advancing the civil rights of children and adults with disabilities through disability rights law, policy reform and advocacy. Founded in 1979, DREDF is managed and directed by people with disabilities and parents of children with disabilities. DREDF has worked diligently to protect and promote full implementation of the Individuals with Disabilities Education Act (IDEA) by assisting parents of children with disabilities to become capable advocates and by representing them in the courts and in Washington. DREDF works toward a world in which people with disabilities are fully integrated into the mainstream of society, with full citizenship, equality, dignity, and civil and human rights.

ENDNOTES

[i] Remarks of Secretary Richard W. Riley, U. S. Department of Education, at the signing ceremony for the reauthorization of the Individuals with Disabilities Education Act, June 4, 1997; accessed via: http://www.ed.gov/Speeches/06-1997/970604a.html.

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[vi] Katherine Beh Neas, Education Task Force of the Consortium for Citizens with Disabilities, testimony before the Committee on Education and the Workforce, U.S. House of Representatives, May 2, 2002.

[vii] *When It's Your Own: A Report on Special Education from the Families Who Use It*, Public Agenda, May 2002, summary of report accessed via: www.publicagenda.org/specials/specialed/specialed.htm.

[viii] "To the Next President of the United States..." Principals' Perspective, a column posted on the Web site of the National Association of Elementary School Principals, November 1, 2000; accessed at http://www.naesp.org/misc/edweek_article_11-01-00.htm.

[ix] ibid.

[x] "Executive Summary," *Twenty-third Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act*, U.S. Department of Education, 2001; accessed via: http://www.ed.gov/offices/OSERS/OSEP/Research/.

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[xxxiv] See "How do Vouchers Affect Educational and Social Equity and Civil Rights," People For the American Way Foundation, available at http://www.pfaw.org/pfaw/dfiles/file_139.pdf.

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[xxxvi] Data from the Florida Department of Education, Choice Office, in the American Education Reform Council report, "Florida A+ Opportunity Scholarship Program and McKay Scholarships for Students with Disabilities Program," available at http://www.schoolchoiceinfo.org/img/pdf/Florida.pdf.

[xxxvii] According to Wisconsin's Department of Public Instruction (DPI), the Milwaukee voucher program will cost $68.3 million in 2002-03. Florida's McKay program is projected to cost $52 million in 2002-03. At its pace of growth, McKay's costs would exceed Wisconsin's DPI projected costs for Milwaukee vouchers ($88.3 million) by the 2004-05 year. (Source: "Burmaster Avoids Budget Fracas," Legislative News Update, Madison, Wisc., Metropolitan School District, Sept. 23, 2002; available at http://www.madison.k12.wi.us/csa/legislat/nlet02-6.htm.) Florida's other voucher law, the so-called A+ program, was written to restrict eligibility to students in school districts that are deemed to be "failing" under the state's grading system.

[xxxviii] Florida Department of Education, McKay scholarship program information, available at https://www.opportunityschools.org/Info/McKay/default.asp.

[xxxix] ibid.

[xl] Alan Richards, "Florida Sees Surge in Use of Vouchers," *Education Week*, September 4, 2002.

[xli] According to Kendra Lee of the Florida Department of Education's Choice Office, in 2001-02, the parents of about 850 students were able to cover the cost of private schooling with their McKay vouchers, while parents of the remaining 4,169 McKay students had to pay some amount on top of the voucher amount; data is from the Florida Department of Education Choice Office, 2002, on Manhattan Institute web site, available at http://www.miedresearchoffice.org/mckayscholarship.htm#_Number_of_students_1.

[xlii] From the text of a Feb. 20, 2002 letter signed by Lisa Graham Keegan (Education Leaders Council), William J. Bennett (Empower America), and Chester E. Finn, Jr., (Thomas B. Fordham Foundation) to Terry E. Branstad, chairman of the President's Commission on Excellence in Special Education.

[xliii] "Florida School Choice Scholarships," from the Web site of the Florida Department of Education at https://www.opportunityschools.org/home.asp; Telephone conversation with an official in the Choice Office of the Florida Department of Education, Feb. 11, 2003.

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[xlvii] "Editorial: McKay's Voucher Results," *St. Petersburg Times*, December 9, 2002.

[xlviii] "Voucher Program Quietly Enrolls Disabled Students," *Tallahassee Democrat*, February 5, 2001.

[xlix] Lori Horovitz, "Voucher Lets Parents Home-School Disabled Child," *Associated Press*, August 17, 2002.

[xlx] Alan Richards, "Florida Sees Surge in Use of Vouchers," *Education Week*, September 4, 2002.

[l] Kelly Ryan Gilmer, "Fewer Students Equals Budget Shortfall," St. Petersburg Times, Dec. 31, 2002.

[li] The Pinellas County public school district is the seventh-largest in Florida and the 22nd-largest in the United States, serving more than 113,000 students. For the 2002-03 school year, the district lost just over 500 students to the McKay voucher program—less than ? of 1 percent of its enrollment. Dividing the number of departing McKay students by the total number of Pinellas County public schools (140), the district lost an average of about 3.7 students per school. (SOURCE: "Pinellas County Schools," home page on the district's Web site, available at http://www.pinellas.k12.fl.us/.)

[lii] "Cleveland Scholarship and Tutoring Program: Final Management Study," Prepared by KPMG LLP, September 9, 1999, p. 9-5.

[liii] Data, unless otherwise noted, is from the testimony of Diane McCain, Florida Department of Education Choice Office, hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, May 8, 2002, available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_house_hearings&docid=f:82136.pdf

[liv] Data from the Florida Department of Education, Choice Office, in the American Education Reform Council report, "Florida A+ Opportunity Scholarship Program and McKay Scholarships for Students with Disabilities Program," available at http://www.schoolchoiceinfo.org/img/pdf/Florida.pdf.

[lv] Data from the Florida Department of Education, Choice Office, in the American Education Reform Council report, "Florida A+ Opportunity Scholarship Program and McKay Scholarships for Students with Disabilities Program," available at http://www.schoolchoiceinfo.org/img/pdf/Florida.pdf.

[lvi] Projections based on the same number of November payees continuing at the same payment rate for two more payments; data from the Florida Department of Education, Choice Office, in the American Education Reform Council report, "Florida A+ Opportunity Scholarship Program and McKay Scholarships for Students with Disabilities Program," available at http://www.schoolchoiceinfo.org/img/pdf/Florida.pdf.

[lvii] Jon East, "Voucher Plan's Rush Leaves Standards Behind," *St. Petersburg Times*, Feb. 23, 2003.

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[lx] "Editorial: An Educational Fraud," *St. Petersburg Times*, October 11, 2001.

[lxi] Rae Osborne, Letter to the Editor, "Parent Response Shows Program Is Working," *St. Petersburg Times*, October 11, 2001.

[lxii] The grade in question was related to the adequate funding of public schools. Among the Southern states, only Tennessee (66 points) ranked below Florida (67 points) on this measure of education quality. (Source: "Resources: Adequacy," *Quality Counts 2003: The Teacher Gap*, a national report card of the 50 states produced by Education Week, January 2003; accessed at: http://www.edweek.org/sreports/qc03/reports/resources-t1.cfm.)

[lxiii] See "Are Private Voucher Schools Accountable," People For the American Way Foundation, available at http://www.pfaw.org/pfaw/general/default.aspx?oid=5480.

[lxiv] Testimony of Diane McCain, Director of Florida Department of Education's Choice Office, before the Presidential Commission on Excellence in Special Education, April 9-10, 2002.

[lxv] Florida Department of Education, McKay scholarship program information, available at: https://www.opportunityschools.org/Info/McKay/responsibilities.asp.

[lxvi] "Principles for the Individuals with Disabilities Education Act," a statement of the Consortium for Citizens With Disabilities, 2001, available at http://www.c-c-d.org/2001IDEAPrinciples.htm. (Note: The Consortium's statement declares that shortages of qualified personnel are "chronic and persistent," and that the "presence of qualified personnel is critical to achieving positive student outcomes.")

[lxvii] "Editorial: DOE Looks the Other Way," *St. Petersburg Times*, October 7, 2001.

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[lxix] American Education Reform Council, "Florida A+ Opportunity Scholarship Program and McKay Scholarships for Students with Disabilities Program," available at: http://www.schoolchoiceinfo.org/img/pdf/Florida.pdf.

[lxx] "Editorial: Tossing McKay Dollars," *St. Petersburg Times*, Nov. 13, 2002.

[lxxi] Robyn F. Friedman, "Private School Accreditation: What Parents Should Know," *South Florida Parenting*, online edition accessed January 2003 at http://www.sfparenting.com/top/1,1419,S-Sfparenting-Home-0!ArticleDetail-10913,00.html.

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[lxxiv] Stephen Hegarty, "Florida Voucher Program Surges," *St. Petersburg Times*, Sept. 5, 2001.

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[xcvii] "Editorial: Disabled Voucher Program," *St. Petersburg Times*, March 24, 2002.

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[c] Stephen Hegarty, "Voucher Complaints Chase Pair," *St. Petersburg Times*, April 7, 2002; "Editorial: A Bad Apple," *St. Petersburg Times*, October 29, 2001; "Editorial: Disabled Voucher Program," *St. Petersburg Times*, March 24, 2002.

[ci] Stephen Hegarty, "Voucher Complaints Chase Pair," *St. Petersburg Times*, April 7, 2002; "Editorial: A Bad Apple," *St. Petersburg Times*, October 29, 2001.

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[civ] Karla D. Shores, "Parents Pull Students, Money From Miramar Private School," *Sun-Sentinel*, January 3, 2003.

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[cxvii] Jon East, "Voucher Plan's Rush Leaves Standards Behind," *St. Petersburg Times*, Feb. 23, 2003.

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cxxxviii Bill Kaczor, "Voucher Program Quietly Enrolls Disabled Students," *Tallahassee Democrat*, February 5, 2001.

cxxxix Stephen Hegarty, "Voucher Complaints Chase Pair," *St. Petersburg Times*, April 7, 2002.

cxxxx Testimony of Diane McCain, Director of Florida Department of Education's Choice Office, before the Presidential Commission on Excellence in Special Education, April 9-10, 2002.

cxl The AJC 2000 Management Team no longer operates Bethel Metropolitan Christian Academy. The Bethel Metropolitan Baptist Church refused to renew the academy's lease. As a result, the management company has joined forces with the Bethel Community Baptist Church, merging its academy with the church school to create the Bethel Community/Baptist Academy II Christian Schools.

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cxlii "Editorial: Disabled Voucher Program," *St. Petersburg Times*, March 24, 2002.

cxliii Clint Bolick, "A Bad IDEA Is Disabling Public Schools," *Education Week*, Sept. 5, 2001; available at www.edweek.org.

cxliv "Free Appropriate Public Education," National Information Center for Children and Youth with Disabilities, accessed in March 2003 at http://www.nichcy.org/Trainpkg/5ohs.pdf>http://www.nichcy.org/Trainpkg/5ohs.pdf

cxlv William Fink, "McKay Scholarships Mislead Parents of Disabled Students," *Daytona Beach News-Journal*, November 14, 2001.

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cli Stephen Hegarty, "Disabled Are Top Voucher Users," *St. Petersburg Times*, Sept. 13, 2002.

clii "Editorial: Disabled Voucher Program," *St. Petersburg Times*, March 24, 2002.

cliii *An Urgent Crisis, An Effective and Affordable Remedy – Amendment 9: The Campaign to Reduce Class Size and Put Florida's Children First*, People For the American Way & Florida's Coalition to Reduce Class Size, September 2002, pp. 2-4; accessed at http://www.pfaw.org/pfaw/general/default.aspx?oid=4213.

cliv "Editorial: Disabled Voucher Program," *St. Petersburg Times*, March 24, 2002.

clv Participating private schools are not required to accept the amount of a McKay voucher as full payment for their tuition and fees.

clvi For parents, filing "a parental notice of intent" with their local school districts is the first step to applying for a McKay voucher. To understand the impact of McKay vouchers in Clay County, we considered a total of 249 students whose parents had applied. Of these 249 students, 131 were attending (as of Jan. 24, 2003) a McKay private school. The remaining 118 students broke down as follows: 16 had returned from McKay private schools to the county's public schools; 92 had parents who had filed an intent letter; 10 students had parents who had filed intent letters, but whose attendance could not be confirmed in county public schools or McKay private schools. Since the last group of 10 could not be traced, this group was not factored into our calculations.

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[clvii] ibid.

[clviii] "McKay Scholarship Status," an accounting of Clay County's student participation in the McKay Scholarship Program, updated as of Jan. 24, 2003 (original memorandum dated Oct. 22, 2002), School District of Clay County, Exceptional Student Education, p. 3.

[clix] Laura Diamond, "A Second Chance at Learning," *Florida Times-Union*, Oct. 30, 2002, p. A-1.

[clx] Lewis M. Andrews, "The Florida Miracle Coming to Connecticut," *Connecticut Family Matters*, October 2002, Vol. 2, No. 10, p.1, published by the Family Institute of Connecticut.

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[clxviii] This includes psychological processing disorders, which manifest themselves through difficulties in the acquisition and use of language, writing, math or reading.

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